

CIVIL WRIT JURISDICTION CASE No.10246 OF 1992

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Brother Abraham, son of Thomas Chempothinadeyil, resident of K R High School, P S – Bettiah Mofussil, District – West Champaran ----- Petitioner

Versus

1. State of Bihar
2. Collector, District – West Champaran, Bettiah.
3. The Sub-Divisional Magistrate, Sadar Bettiah, District- West Champaran.
4. Bharat Singh son of (not known) Secretary, District Rural Agricultural Workers' Union, Kedar Ashram, Tilak Maidan, Bettiah, District-West Champaran.
5. Lalan Ram son of Bhukhal Ram, resident of Supriya Road, P S – Bettiah, District – West Champaran. ----- Respondents

For the petitioner : Mr. K.M. Joseph

For the respondents : None

P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

A K Tripathi, J.

Petitioner wants quashing of the order dated 23.3.1992 contained in annexure-3 which is an order passed by the Sub Divisional Officer, Sadar, Bettiah in Case No. 4 M-K/92 which was a proceeding initiated under section 20(2) of the Minimum Wages Act.

2. Learned counsel for the petitioner submits that the whole complaint and the allegation was a bogus allegation brought about by a vested interest i.e. respondent no.4 against non existent so-called workman who is supposed to be respondent no.5 to whom the minimum wages had not been paid by the petitioner. His submission is that at no point of time any person with the name Lalan Ram had worked with the petitioner and nor any claim on his behalf was

certified by him. During the proceeding they produced a person known as Shyama Ram as Lalan Ram. Not only this, instead of the claimant establishing his case before the authority the burden was shifted on the petitioner to show that he has not committed the breach of the provision of the Minimum Wages Act. Though notices had been issued at stage of admission but the private respondents did not bother to appear either to accept or to resist the assertion made in the writ application. Prima facie, therefore, it seems that the assertion made by the petitioner is true and the allegation made against the petitioner may be for considerations which may be prevalent locally at the relevant time.

3. It is also stated that by the learned counsel for the petitioner that the petitioner was not shirking in responsibility of even paying this illegal amount which had been saddled upon him but since the effort of State authorities to identify the person and then extend the benefit had also failed they are helpless.

4. In the given circumstances this Court is of the opinion that the proceeding has not been conducted in accordance with the provision of section 20(2) read with necessary rules in this regard under the Act.

5. The order dated 23.3.1992 contained in annexure-3 is quashed and writ application is allowed.

(Ajay Kumar Tripathi, J)

Patna High Court:
The 28th November, 2008.
(NAFR) R K Pathak.